REMARKS

Claims 1-22 are pending in the application, of which, Claims 1 and 22 are independent. Claims have been rejected under 35 U.S.C. 112, Second Paragraph, under 35 U.S.C. 102(b), and under 35 U.S.C. 103(a). Those rejections are respectfully traversed and reconsideration is requested.

Claim 1 has been amended to more clearly claim the disclosed invention. Support for the amendments can be found in the Applicant's Specification on at least page 7, lines 10-13.

Claim 12 has been amended to correct a typographical error.

Rejections under 35 U.S.C. 112, Second Paragraph

Claims 1-22 have been rejected under 35 U.S.C. 112, Second Paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention.

In particular, the Office states that *"a security perimeter that includes two or more data processing devices,"* as claimed in Claim 1 and as similarly claimed in Claim 12, is not clear. In support of its assertion, the Office points to page 6, lines 23-25 of the Applicants' specification, which states that "the present invention establishes a perimeter of accountability for file usage at the point of use." The Office puts forth that it is not known how a security perimeter at the point of use can consist of multiple devices, because for a single use, a point of use would be at a single device.

Applicants respectfully submit that the above quotation of the Applicants' specification has been misinterpreted. It appears that the Office has interpreted the quotation as meaning that the entire perimeter is established at a single point of use; however, this is not the case. The quotation describes a perimeter as illustrated in Fig. 1 of the Applicants' disclosure. Referring to Fig. 1, the perimeter 200 is concerned with the usage of digital assets at their various points of use. Example points of use are illustrated in Fig. 1, such as a PDA 206, a USB storage device 208, or a printer 210. Thus, the above quotation, in view of Fig. 1, should not be interpreted as meaning that the entire perimeter is established at a single point of use, but rather that the perimeter provides accountability for a use of a file at its particular point of use (in contrast to

use of the file in general). Therefore, Applicants respectfully submit that is clear how the claimed security perimeter can include two or more devices. As such, independent Claims 1 and 12 are believed to particularly point out and distinctly claim the subject matter that Applicants regard as the invention.

Dependent Claims 2-11 and 13-22 were rejected based on the rejections of independent Claims 1 and 12; thus, Claims 2-11 and 13-22 are also believed to particularly point out and distinctly claim the subject matter that Applicants regard as the invention.

As such, the rejections of Claims 1-22 under 35 U.S.C. 112, Second Paragraph, are believed to be overcome. Withdrawal of those rejections is respectfully requested.

Rejections under 35 U.S.C. 102(b)

Claims 1-3, 5, 7, 8, 11-14, 16, 18, 19, and 22 have been rejected under 35 U.S.C. 102(b) as being anticipated by Shear *et al.* (U.S. Pub. No. 2001/0042043, hereinafter "Shear").

Claim Elements Asserted by the Office as Being Optional

Regarding Claim 1, The Office states that the words "when" and "if," as recited in Claim 1, indicate optional claim limitations and, thus, do not need to be shown in the cited reference. The Office cites *In re Johnston*, 77 USPQ2d 1788 in support of the assertion. The pertinent portion of *In re Johnston* is reproduced below.

> "Claim 3, which depends from claims 1 and 2, contains the additional limitation 'further including that said wall may be smooth, corrugated, or profiled with increased dimensional proportions as pipe size is increased.' The Board ruled that this additional content did not narrow the scope of the claim because these limitations are stated in the permissive form 'may.' As a matter of linguistic precision, optional elements do not narrow the claim because they can always be omitted. We affirm the Board's ruling that claim 3 as written is anticipated."

See In re Johnston, 435 F.3d 1381, 1384 (Fed. Cir. 2006). It should be noted that the claim language at issue in *In re Johnston* includes the word "may"; thus, *In re Johnston* does not support a *per se* rule of interpreting the words "when" or "if" as indicating optional limitations. Instead, *In re Johnston* merely stands for the proposition that if an element is optional, then it

need not be given weight. The claim language in *In re Johnston* differs greatly from a claim element that recites a condition, that is, a claim element that recites a conditional response to a stimulus. Such an element is not optional because given the claimed stimulus, the element will always perform the claimed response. Thus, if an element includes the words "when" or "if" to indicate a conditional response to a stimulus, then the element is not optional. Such is the case with Claim 1. Therefore, the relevant elements of Claim 1 are not optional. To avoid any further confusion, however, Claim 1 has been amended to remove the words "when" and "if."

In further support if its assertion, the Office refers to the Applicants' previous response, in which the Applicants stated that cited reference Shear does not show "optionally applying end user action policies based on attempted use of digital assets." The word "optional" in the Applicants' previous response was used to convey the notion that the application of an end user action is conditional, that is, based on the particular use of the digital assets. In a subsequent statement that immediately follows the above statement, the Applicants further clarified this notion by stating that "the assertion of a policy violation predicate depends upon a proposed action to be taken with the digital assets." Therefore, the Applicants use of the word "optional" in the previous response should not be interpreted as rendering any elements of the claims as being optional.

When considering the ignored elements of Claim 1, Applicants respectfully submit that Shear does not teach *"asserting a policy violation predicate upon an occurrence of a combined event that violates a predefined digital asset usage policy that indicates a risk of use of the digital asset outside of the security perimeter."* While Shear mentions in paragraph [0193] that an application related to Shear discloses "local secure execution of control processes," that disclosure does not teach or even suggest asserting a policy based on the occurrence of a combined event indicating a risk of use outside of a security perimeter. Therefore, the above element of Claim 1 is believed to distinguish over the cited art.

Regarding Claim 12, the Office states that the word "if," as recited in Claim 12, indicates an optional claim limitation and cites *In re Johnston*, 77 USPQ2d 1788 in support of the assertion; however, the usage of the word "if" in Claim 12 differs greatly from the usage of the word "may" in *In re Johnston*. The relevant element of Claim 12 recites *"a policy violation detector, for determining if a combination of combined events has occurred that violates a*

predefined digital asset usage policy that indicates a risk of use of a digital asset outside the security perimeter." The element states that the policy violation detector determines if a combination of events has occurred. The determination is not optional. Whether a combination of events has occurred, or has not occurred, the policy violation detector will always make the determination. Therefore, the relevant element of Claim 12 is not optional.

When considering the ignored element of Claim 12, Applicants respectfully submit that Shear does not teach *"a policy violation detector, for determining if a combination of combined events has occurred that violates a predefined digital asset usage policy that indicates a risk of use of a digital asset outside the security perimeter."* As similarly presented above for Claim 1, Shear does not teach or even suggest determining a policy violation based on the occurrence of a combined event indicating a risk of use outside of a security perimeter. Therefore, the above element of Claim 12 is believed to distinguish over the cited art.

Applicants further point out that the word "if" in the last element of Claim 12 has existed in Claim 12 since the original filing of the present application; thus, the Office's new assertion that the word "if" renders the last element of Claim 12 as optional is a new ground of rejection that is not necessitated by Applicants' amendments. As such, Applicants respectfully submit that the current Office Action has been made Final in error.

Claim Elements Asserted by the Office as Being Disclosed by the Cited Art

Regarding Claim 1, the Office asserts that the element of *"aggregating multiple atomic level events to determine a combined event"* is disclosed by paragraphs [0188] and [0334] of Shear. In particular, the Office states that paragraph [0188] discloses "metering and rules" and that paragraph [0334] discloses "a combination of such events with a user-initiated event."

In the response to the previous Office Action, Applicants explained that the terms "metering information" and "rules" are not defined in Shear, much less defined as being equivalent to the present application's *"atomic level digital asset access events."* Given its plain meaning, the term "metering information" is not equivalent to an *"atomic level digital asset access event,"* because "metering information" would be a sort of measurement, while an *"atomic level digital asset access event"* is an occurrence or action that takes place with regard to accessing a digital asset, such as the copying of a file to a USB device. Furthermore, given its plain meaning, the term "rules" is not equivalent to an *"atomic level digital asset access event"*

because a rule is not such an occurrence or action. Therefore, Shear's disclosed "metering and rules" does not teach or suggest *"aggregating multiple atomic level events to determine a combined event"* wherein the atomic level events are *"atomic level digital asset access events,"* as claimed in Claim 1.

In response to the above explanation, the Office made reference to "a combination of such events with a user-initiated event," as recited in paragraph [0334] of Shear. Upon a closer reading of the cited portion of Shear, the term "such events" refers to either 1) a time of day or 2) a random event, and not the "metering and rules" of paragraph [0188]. Moreover, a "user-initiated event," as recited in paragraph [0188], is not defined as being equivalent to an *"atomic level digital asset access event"*; thus, combining anything with a "user-initiated event" would not result in the claimed aggregation of atomic level digital asset access events. Therefore, for at least the reasons presented above, Claim 1 is believed to further distinguish over the cited art.

Claim 12 similarly recites *"an atomic level event aggregator, to determine the occurrence of an aggregate event that comprises more than one atomic level asset access event,"* and is believed to further distinguish over the cited art for at least the same reasons presented above for Claim 1.

Dependent Claims 2, 3, 5, 7, 8, 11, 13, 14, 16, 18, 19, and 22 either directly or indirectly depend from independent Claims 1 or 12 and, thus, include the elements of either Claims 1 or 12. Therefore, Applicants respectfully submit that these claims distinguish over the cited art for at least the same reasons as presented above for independent Claims 1 and 12.

As such, the rejections of Claims 1-3, 5, 7, 8, 11-14, 16, 18, 19, and 22 under 35 U.S.C. 102(b) are believed to be overcome. Withdrawal of those rejections is respectfully requested.

Rejections under 35 U.S.C. 103(a)

Claims 6, 17, and 20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Shear.

Claim 9 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Shear in view of Danieli (U.S. Patent No. 6,510,513).

Claims 4, 7, 10, 15, 18, and 21 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Shear in view of McCarty (U.S. Patent No. 5,666,411).

Dependent Claims 4, 6, 7, 9, 10, 15, 17, 18, 20, and 21 either directly or indirectly depend from independent Claims 1 or 12 and, thus, include the elements of either Claims 1 or 12. Neither Danieli nor McCarty adds to Shear *"aggregating multiple atomic level events to determine a combined event"* wherein the atomic level events are *"atomic level digital asset access events,"* or *"asserting a policy violation predicate upon an occurrence of a combined event that violates a predefined digital asset usage policy that indicates a risk of use of the digital asset outside of the security perimeter,"* as presented above for independent Claim 1.

Further, neither Danieli nor McCarty adds to Shear *"an atomic level event aggregator, to determine the occurrence of an aggregate event that comprises more than one atomic level asset access event"* or *"a policy violation detector, for determining if a combination of combined events has occurred that violates a predefined digital asset usage policy that indicates a risk of use of a digital asset outside the security perimeter,"* as presented above for independent Claim 12. Therefore, Applicants respectfully submit that dependent Claims 4, 6, 7, 9, 10, 15, 17, 18, 20, and 21 are novel and nonobvious over the cited art for at least the same reasons as presented above for independent Claims 1 and 12.

As such, the rejections of Claims 4, 6, 7, 9, 10, 15, 17, 18, 20, and 21 under 35 U.S.C. 103(a) are believed to be overcome. Withdrawal of those rejections is respectfully requested.

Accordingly, the present invention as claimed is not believed to be anticipated or made obvious by the cited or prior art. Acceptance of Claims 1-22 is respectfully requested.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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